

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

|                                  |   |                                   |
|----------------------------------|---|-----------------------------------|
| <b>DAWN MARIE BALL,</b>          | : | <b>Civil No. 1:09-CV-773</b>      |
| <b>Plaintiff</b>                 | : |                                   |
|                                  | : | <b>(Chief Judge Kane)</b>         |
| <b>v.</b>                        | : |                                   |
|                                  | : | <b>(Magistrate Judge Carlson)</b> |
| <b>C.O. HILL, <u>et al.</u>,</b> | : |                                   |
| <b>Defendants</b>                | : |                                   |

**ORDER**

**NOW**, on this 21<sup>st</sup> day of December 2011, **IT IS HEREBY ORDERED THAT** upon a de novo review of Magistrate Judge Carlson's October 13, 2011 Report and Recommendation (Doc. No. 62) and Plaintiff Dawn Marie Ball's objections thereto<sup>1</sup> (Doc. Nos. 64, 65), the Report and Recommendation (Doc. No. 62) is **ADOPTED** and Defendants' motions to dismiss (Doc. Nos. 43, 45) are **GRANTED IN PART AND DENIED IN PART AS FOLLOWS:**

1. All official capacity damages claims are **DISMISSED**;
2. Superintendant Lamas, Major Bechdel, Deputy Shepler, Captain Robenolt, Captain Craver, Captain Moser, and Grievance Coordinator Troy Edwards are **DISMISSED**;
3. The motion to dismiss is **DENIED** in all other respects without prejudice to the submission of a subsequent more thoroughly documented dispositive motion.

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<sup>1</sup> The objections relate solely to the Court's order referring this matter to Magistrate Carlson without Plaintiff's consent. As has been noted by both this Court and Magistrate Judge Carlson, the Federal Magistrates Act grants the Court the authority to refer matters to a magistrate judge without the consent of the parties including pretrial matters, 28 U.S.C. § 636(b)(1)(A), as well as dispositive motions, 28 U.S.C. § 636(b)(1)(B)-(C). See, e.g., Beazer E., Inc. v. Mead Corp., 412 F.3d 429, 438 (3d Cir. 2005) ("The Magistrates Act authorizes district courts to appoint magistrate judges to consider pretrial matters without regard to the parties' consent."); In re U.S. Healthcare, 159 F.3d 142, 145 (3d Cir. 1998) (noting district courts may refer dispositive motions to a magistrate judge for a report and recommendation without a party's consent).

S/ Yvette Kane  
Yvette Kane, Chief Judge  
United States District Court  
Middle District of Pennsylvania